

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:) No. 21-11709
CALUMET PAINT & WALLPAPER, INC.,) Chapter 11
Debtor/Debtor-in-Possession.) Hon. Timothy A. Barnes

NOTICE OF MOTION

TO: ATTACHED SERVICE LIST:

PLEASE TAKE NOTICE that on the 25th day of October, 2021 at 1:00 p.m. or as soon thereafter as counsel can be heard, I shall appear before the Honorable Timothy A. Barnes, Bankruptcy Judge, or before any other Judge who may be sitting in his place and stead and shall present the **Debtor's Motion For Authority To Use Existing Bank Accounts**, a copy of which is attached hereto and herewith served upon you.

This motion will be presented and heard electronically using Zoom for Government. No personal appearance in court is necessary or permitted. To appear and be heard on the motion, you must do the following:

To appear by video, use this link: <https://www.zoomgov.com/>. Then enter the meeting ID and password. Meeting ID and password. The meeting ID for this hearing is 161 329 5276 and the password is 433658.

To appear by telephone, call Zoom for Government at (669) 254-5252 or (646) 828-7666. Then enter the meeting ID and password. Meeting ID and password. The meeting ID for this hearing is 161 329 5276 and the password is 433658.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date.

/s/David K. Welch

DEBTOR'S COUNSEL:

David K. Welch, Esq. (Atty. No. 06183621)
Brian P. Welch, Esq. (Atty. No. 6307292)
Burke, Warren, MacKay & Serritella, P.C.
330 N. Wabash Ave., Suite 2100, Chicago, Illinois 60611
Tel: (312) 840-7000 - - Fax: (312) 840-7900

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CERTIFICATE OF SERVICE

The undersigned, being first duly sworn on oath deposes and states that he caused a copy of the foregoing **Notice of Motion** and attached **Debtor's Motion For Authority To Use Existing Bank Accounts** be served on all the parties listed on the attached service list via the Court's Electronic Filing System (ECF) and via U.S. Regular Mail on the 18th day of October 2021.

/s/David K. Welch

DEBTORS' COUNSEL:

David K. Welch, Esq. (Atty. No. 06183621)
Brian P. Welch, Esq. (Atty. No. 6307292)
Burke, Warren, MacKay & Serritella, P.C.
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SERVICE LIST

United States Trustee Office
219 S. Dearborn St., Room 873
Chicago, IL 60604

Robert P. Handler
Commercial Recovery Associates, LLC
205 West Wacker Drive, Suite 918
Chicago, IL 60606

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DEBTOR'S MOTION FOR AUTHORITY TO USE EXISTING BANK ACCOUNTS

CALUMET PAINT & WALLPAPER, INC., Debtor/Debtor-in-Possession (the “Debtor”), by and through its Attorneys, makes this Motion for Authority to Use Existing Bank Accounts (the “Motion”), and in support thereof, the Debtor respectfully states as follows:

INTRODUCTION

1. On October 13, 2021, the Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code thereby commencing this Chapter 11 case under Subchapter V (the “Petition Date”).

2. The Debtor is operating its business and managing its financial affairs as Debtor-in-Possession. A Subchapter V Trustee has been appointed in this Chapter 11 case.

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 157 and 28 U.S.C. § 1334.

4. This matter constitutes a “core” proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A) and (O).

5. By this Motion, the Debtor seek authority from this Court to maintain its pre-petition bank account at First Midwest Bank (“First Midwest”) after the filing of this Chapter 11 case, rather than open new post-petition accounts.

RELEVANT BACKGROUND

6. The Debtor is an Illinois corporation operating from leased premises at 12120 Western Avenue, Blue Island, Illinois. The Debtor has been in business since 1957 and is currently an authorized Benjamin Moore retailer specializing in the sale of interior and exterior paints, stains and related supplies.

7. On or about May 17, 2021, an arbitration award in favor of Super Painters Supply, LLC (“SPS”) and against the Debtor and its principal officer, Mark LaVelle, in the amount of approximately \$689,000.00 (the “Arbitration Award”) was issued by the arbitrator. The issuance of the Arbitration Award followed a hearing at which neither the Debtor nor Mr. LaVelle participated.

8. Thereafter, SPS filed a Petition for Confirmation of Arbitration Award in the Circuit Court of Cook County, Illinois. In response to this Petition, the Debtor and Mr. LaVelle filed a Motion to Vacate the Arbitration Award citing numerous grounds. SPS filed a Motion to Strike the Motion to Vacate. This Chapter 11 case was filed before any substantive rulings on the Motion to Vacate and the Motion to Strike.

9. As of the Petition Date, the Arbitration Award has not been confirmed. The Arbitration Award and resulting litigation costs were the triggering events for the filing of this Chapter 11 case.

10. The Debtor intends on filing a plan of reorganization that provides for repayment to all creditors with allowed claims over an acceptable period of time from revenue generated by the Debtor in the ordinary course of business.

RELIEF REQUESTED

11. By this Motion, the Debtor seeks authority from this Court to maintain its Existing Bank Account after the filing of this Chapter 11 case rather than opening a new debtor-in-possession account.

12. Maintenance of the Existing Bank Accounts throughout the course of this Chapter 11 case will allow the Debtor to maintain its existing system for record keeping and electronic payments for budgeted expenses without disruption.

13. The Debtor's internal accounting practices allow the Debtor to easily differentiate between pre-petition and post-petition transactions relating to the Existing Bank Account.

14. Allowing the Debtor to continue to use the Existing Bank Accounts after the filing of this Chapter 11 case is in the best interests of the Debtor, its creditors and the Debtor's bankruptcy estate.

15. The Debtor will account for the amounts in the Existing Bank Account in its Monthly Operating Reports to be filed with this Court.

WHEREFORE, CALUMET PAINT & WALLPAPER, INC., Debtor/Debtor-in-Possession, respectfully request the entry of an Order authorizing the Debtor to use its Existing Bank Account at First Midwest Bank and granting such other and further relief as this Court deems appropriate under the circumstances.

Respectfully submitted:

CALUMET PAINT & WALLPAPER, INC.,
Debtor/Debtor-in-Possession,

By:/s/ David K. Welch
One of Its Attorneys

DEBTOR'S COUNSEL:

David K. Welch, Esq. (Atty. No. 06183621)
Brian P. Welch (Atty. No. 6307292)
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